

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4080 OF 1991

Rajendra Dudh Vyavasayik Sahakari Sanstha ..Petitioner

V/s.

State of Maharashtra & ors. ..Respondents

Mr.Mulye h/f. **Mr.G.S.Godbole** for the petitioner

Mr.V.S.Gokhale AGP for the respondents – State

Mr.Sandeep Pathak h/f. **Mr.A.V.Anturkar** for the respondent No.4

WITH

WRIT PETITION NO.4921 OF 1991

Kurawali Sahakari Dudh Utpadak Sanstha Maryadit ..Petitioner

V/s.

State of Maharashtra & Ors. ..Respondents

Mr.Ashutosh Gole h/f.**Mr.R.S.Apte** for the petitioner

Mr.V.S.Gokhale, AGP for the respondents – State

Coram : D.G.Deshpande, J.

Date : 16th October, 2006

P.C.

1. Heard advocate for the petitioner and

Sandeep Pathak, advocate for respondent No.4 in [W.P.No.4080](#) of 1991 and [Mr.V.S.Gokhale](#), AGP for the respondents in both the matters. Both the petitioners have challenged the order of the Assistant Registrar Co-operative Societies (Dairy), Pune dated 13th May, 1991 which is at Exh.B in [W.P.No.4921](#) of 1991. On the last occasion the learned AGP pointed out that the State has filed an affidavit of Kiran Abhiman Sonawane, Assistant Registrar Co-operative Societies (Dairy), Pune. The affidavit was very short, cryptic and not to the different points raised in the petition therefore, an order was passed directing the said deponent Mr.Kiran Abhiman Sonawane to remain present. Accordingly, he is present in the Court and the learned AGP upon instructions from Kiran Sonawane and from the record perused by Mr.Kiran Sonawane states that impugned order at Exh.B is misconceived, wrong and without any basis i.e. the order of declaring proposed Sanjay Co-operative Milk Society Ltd.Ranmode - Manemala (Kurawali) Tal.Indapur as the second Milk Co-operative Society and therefore, its proposal being accepted by the

said authority. The counsel for respondent No.4 tried to contend that there is no reason to interfere with this order and for the mistake of the said order respondent No.4 should not suffer.

2. Submission of counsel for respondent No.4 cannot be accepted when the Registrar who has filed an affidavit in the Court makes a statement on the basis of record and concedes that the impugned order dated 13th May,1991 is wrong to the aforesaid extent which is operative part of the order, then it cannot be sustained. There is no question of any prejudice to the respondent No.4. As a resultt, both the petitions in terms of prayer Clause (a) & (b) are disposed of. Rule discharged. If the Law permits, respondent No.4 may file a separate application. It will be decided independently and if necessary both the petitioners shall be heard by the authority before passing any order.

(D.G.Deshpande, J.)